

111TH CONGRESS
1ST SESSION

S. 733

To ensure the continued and future availability of life saving trauma health care in the United States and to prevent further trauma center closures and downgrades by assisting trauma centers with uncompensated care costs, core mission services, and emergency needs.

IN THE SENATE OF THE UNITED STATES

MARCH 26, 2009

Mrs. MURRAY (for herself and Mr. ISAKSON) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To ensure the continued and future availability of life saving trauma health care in the United States and to prevent further trauma center closures and downgrades by assisting trauma centers with uncompensated care costs, core mission services, and emergency needs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Trauma Cen-
5 ter Stabilization Act of 2009”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) Victims of traumatic injury should have ac-
2 cess to lifesaving care regardless of their geographic
3 location or ability to pay. Major multi-system trau-
4 ma victims receiving care within the first “Golden
5 Hour” following their injury are substantially more
6 likely to survive.

7 (2) Maintaining a strong and effective trauma
8 care system for all victims of traumatic injury re-
9 quires the availability of a sufficient number of trau-
10 ma centers at appropriate levels of trauma care ca-
11 pability in all geographic regions of the United
12 States.

13 (3) Regional trauma centers annually treat
14 678,000 patients, regardless of their ability to pay.
15 When a trauma victim cannot afford treatment, the
16 trauma center pays for care that may save their life.

17 (4) The cost of delivering trauma care has
18 steadily increased in the last decade. Trauma centers
19 collectively have incurred \$230,000,000 per year in
20 losses for treating victims who are either uninsured
21 or whose care is reimbursed well below the cost of
22 providing care.

23 (5) Substantial uncompensated care costs are
24 distressing trauma centers and threatening the avail-
25 ability of life-saving trauma services in numerous

1 areas across the United States. Since 2000, 20 hos-
2 pitals have closed their trauma centers, and 13 oth-
3 ers have downgraded their trauma service.

4 (6) At a time when the threat of mass emer-
5 gencies are high, financial pressures are placing
6 trauma centers at serious risk. Trauma centers are
7 required to respond to mass emergencies including
8 natural disasters, large scale accidents and terrorist
9 attacks. By their very nature, trauma centers main-
10 tain a constant state of readiness, extra capacity,
11 and strong healthcare facility connections with the
12 local and regional emergency care community.

13 (7) Medical liability exposure and its related
14 costs have contributed to the closing of trauma cen-
15 ters and downgrading of trauma levels. It is impor-
16 tant to find ways to minimize risk to those who pro-
17 vide lifesaving care in those initial critical hours fol-
18 lowing a trauma event.

19 (8) The supply of trauma surgeons in the
20 United States is rapidly declining. Trauma fellow-
21 ships are only 60 percent full.

22 (9) There is a limited pipeline to replace retir-
23 ing trauma surgeons and surgical specialists. The
24 average age of an American College of Surgeons Fel-

1 low is 58 years and most hospitals do not require
 2 trauma surgeons to take calls after the age of 60.

3 (10) A national survey of surgeons conducted
 4 by the Robert Wood Johnson Foundation revealed
 5 that 50 percent of respondents would abandon emer-
 6 gency calls if it were not mandated to maintain staff
 7 privileges.

8 (11) Increasing numbers of trauma centers are
 9 closing their emergency departments or downgrading
 10 their trauma center designation level due to factors
 11 that include a lack of access to on-call specialists.

12 (12) The lack of surgical availability is concen-
 13 trating trauma care in regional trauma centers as
 14 the only source of surgical specialty care for hun-
 15 dreds of miles for patients historically cared for in
 16 community trauma centers. This causes a lack of
 17 surge capacity and results in an inability to accept
 18 severely injured patients at the regional trauma cen-
 19 ter level.

20 **TITLE I—TRAUMA CARE** 21 **CENTERS**

22 **SEC. 101. GRANTS FOR TRAUMA CARE CENTERS.**

23 Section 1241 of the Public Health Service Act (42
 24 U.S.C. 300d–41) is amended by striking subsections (a)
 25 and (b) and inserting the following:

1 “(a) IN GENERAL.—The Secretary shall establish 3
2 programs to award grants to qualified public, non-profit,
3 Indian Health Service, Indian tribal, and urban Indian
4 trauma centers—

5 “(1) to assist in defraying substantial uncom-
6 pensated care costs as defined in section 1246;

7 “(2) to further their core missions, including by
8 addressing costs associated with patient stabilization
9 and transfer, trauma education and outreach, co-
10 ordination with local and regional trauma systems,
11 and essential personnel and other fixed costs; and

12 “(3) to provide emergency relief to ensure the
13 continued and future availability of trauma services
14 by trauma centers at risk of closing or centers oper-
15 ating in an area where a closing has occurred within
16 their primary service area.

17 “(b) MINIMUM QUALIFICATIONS OF TRAUMA CEN-
18 TERS.—

19 “(1) PARTICIPATION IN TRAUMA CARE SYSTEM
20 OPERATING UNDER CERTAIN PROFESSIONAL GUIDE-
21 LINES.—Subject to paragraph (2), the Secretary
22 may not award a grant to a trauma center under
23 subsection (a) unless the trauma center involved is
24 a participant in a trauma system that substantially
25 complies with section 1213.

1 “(2) EXEMPTION.—Paragraph (1) shall not
2 apply to trauma centers that are located in States
3 with no existing trauma care system.

4 “(3) QUALIFICATION FOR SUBSTANTIAL UN-
5 COMPENSATED CARE COSTS.—The Secretary shall
6 only award substantial uncompensated care grants
7 under subsection (a)(1) to trauma centers meeting
8 at least 1 of the criteria in 1 of the following 3 cat-
9 egories:

10 “(A) CATEGORY A.—The criteria for cat-
11 egory A are as follows:

12 “(i) At least 50 percent of the visits
13 in the emergency department of the hos-
14 pital in which the trauma center is located
15 were charity or self-pay patients.

16 “(ii) At least 70 percent of the visits
17 in such emergency department were Med-
18 icaid (title XIX of the Social Security Act)
19 and charity and self-pay patients com-
20 bined.

21 “(B) CATEGORY B.—The criteria for cat-
22 egory B are as follows:

23 “(i) At least 35 percent of the visits
24 in such emergency department were char-
25 ity or self-pay patients.

1 “(ii) At least 50 percent of the visits
 2 in such emergency department were Med-
 3 icaid (title XIX of the Social Security Act)
 4 and charity and self-pay patients com-
 5 bined.

6 “(C) CATEGORY C.—The criteria for cat-
 7 egory C are as follows:

8 “(i) At least 20 percent of the visits
 9 in such emergency department were char-
 10 ity or self-pay patients.

11 “(ii) At least 30 percent of the visits
 12 in such emergency department were Med-
 13 icaid (title XIX of the Social Security Act)
 14 and charity and self pay patients com-
 15 bined.

16 “(4) TRAUMA CENTERS IN 1115 WAIVER
 17 STATES.—Notwithstanding paragraph (3), the Sec-
 18 retary may award a substantial uncompensated care
 19 grant to a trauma center under subsection (a)(1) if
 20 the trauma center qualifies for funds under a Low
 21 Income Pool or Safety Net Care Pool established
 22 through a waiver approved under section 1115 of the
 23 Social Security Act.

24 “(5) DESIGNATION.—The Secretary may not
 25 award a grant to a trauma center unless such trau-

1 ma center is verified or designated by the American
2 College of Surgeons or an equivalent State or local
3 agency.

4 “(c) ADDITIONAL REQUIREMENTS.—The Secretary
5 may not award a grant to a trauma center under sub-
6 section (a)(1) unless the trauma center involved—

7 “(1) submits to the Secretary a plan satisfac-
8 tory to the Secretary that—

9 “(A) is developed on the assumption that
10 the center will continue to incur substantial un-
11 compensated costs in providing trauma care;
12 and

13 “(B) provides for the long-term continued
14 operation of the center at similar or greater lev-
15 els of medical care than in prior years notwith-
16 standing such substantial uncompensated costs;

17 “(2) agrees to implement the plan according to
18 a schedule approved by the Secretary; and

19 “(3) has policies in place to assist patients who
20 cannot pay for part or all of the care they receive,
21 including a sliding fee scale, and to ensure fair bill-
22 ing and collection practices.”.

1 **SEC. 102. CONSIDERATIONS IN MAKING GRANTS.**

2 Section 1242 of the Public Health Service Act (42
3 U.S.C. 300d–42) is amended by striking subsections (a)
4 and (b) and inserting the following:

5 “(a) SUBSTANTIAL UNCOMPENSATED CARE
6 AWARDS.—

7 “(1) IN GENERAL.—The Secretary shall estab-
8 lish an award basis for each eligible trauma center
9 for grants under section 1241(a)(1) according to the
10 percentage described in paragraph (2), subject to the
11 requirements of section 1241(b)(3).

12 “(2) PERCENTAGES.—The applicable percent-
13 ages are as follows:

14 “(A) With respect to a category A trauma
15 center, 100 percent of the uncompensated care
16 costs.

17 “(B) With respect to a category B trauma
18 center, not to exceed 75 percent of the uncom-
19 pensated care costs.

20 “(C) With respect to a category C trauma
21 center, not to exceed 50 percent of the uncom-
22 pensated care costs.

23 “(b) CORE MISSION AWARDS.—

24 “(1) IN GENERAL.—In awarding grants under
25 section 1241(a)(2), the Secretary shall—

1 “(A) reserve 25 percent of the amount al-
2 located for core mission awards for Level III
3 and Level IV trauma centers, and reallocate
4 such amount to Level I and Level II trauma
5 centers if there are not sufficient qualifying
6 Level III and IV centers to which such funds
7 may be obligated;

8 “(B) reserve 25 percent of the amount al-
9 located for core mission awards for large urban
10 Level 1 trauma centers that—

11 “(i) have at least 1 graduate medical
12 education fellowship in trauma or trauma
13 related specialties, including neurological
14 surgery, surgical critical care, vascular sur-
15 gery, and spinal cord injury for which de-
16 mand is exceeding supply;

17 “(ii) have either annual uncompen-
18 sated care costs exceeding \$10,000,000 or
19 where at least 20 percent of emergency de-
20 partment visits are charity or self-pay or
21 Medicaid patients; and

22 “(iii) are not eligible for substantial
23 uncompensated care awards under section
24 1241(a)(1); and

1 “(C) give preference to any application
2 made by a trauma center—

3 “(i) in a geographic area where
4 growth in demand for trauma services ex-
5 ceeds capacity; or

6 “(ii) that demonstrates the financial
7 support of the State or political subdivision
8 involved.

9 “(2) FINANCIAL SUPPORT.—For purposes of
10 paragraph (1)(C)(ii), for any of the purposes speci-
11 fied in section 1241 for each fiscal year during
12 which payments are made to the trauma center in-
13 volved from the grant, such financial support may be
14 demonstrated by State or political subdivision fund-
15 ing for the trauma center’s capital or operating ex-
16 penses (including through State trauma regional ad-
17 visory coordination activities or Medicaid funding
18 designated for trauma services, or other govern-
19 mental funding). State funding derived from Federal
20 support provided through the Trauma Systems Plan-
21 ning Grants awarded to States or political subdivi-
22 sions shall not constitute State or local financial
23 support for purposes of preferential treatment under
24 this subsection.

1 “(c) EMERGENCY AWARDS.—In awarding grants
2 under section 1241(a)(3), the Secretary shall—

3 “(1) give preference to any application sub-
4 mitted by a trauma center that demonstrates the fi-
5 nancial support (in accordance with subsection
6 (b)(2)) of the State or political subdivision involved
7 for any of the purposes specified in section 1241 for
8 each fiscal year during which payments are made to
9 the center under the grant;

10 “(2) give preference to any application sub-
11 mitted by a trauma center that—

12 “(A) is providing trauma care in a geo-
13 graphic area in which the availability of trauma
14 care has either significantly decreased as a re-
15 sult of a trauma center in the area permanently
16 ceasing participation in such system as of a
17 date occurring during the 2-year period pre-
18 ceding the fiscal year for which the trauma cen-
19 ter is applying to receive a grant under section
20 1241(a)(3), or in geographic areas where
21 growth in demand for trauma services exceeds
22 capacity;

23 “(B) will, in providing trauma care during
24 the 1-year period beginning on the date on
25 which the application for the grant is sub-

mitted, incur substantial uncompensated costs in an amount that renders the center unable to continue participation in such system and results in a significant decrease in the availability of trauma care in the geographic area; or

“(C) operates in rural areas where trauma care availability will significantly decrease if the center is forced to close or downgrade service and substantial uncompensated costs are contributing to a likelihood of such closure or downgradation; and

“(3) reallocate any emergency awards funds not obligated due to insufficient, or a lack of qualified, applications to the significant uncompensated care award program.”.

SEC. 103. CERTAIN AGREEMENTS.

Section 1243 of the Public Health Service Act (42 U.S.C. 300d–43) is amended by striking subsections (a), (b), and (c) and inserting the following:

“(a) COMMITMENT REGARDING CONTINUED PARTICIPATION IN TRAUMA CARE SYSTEM.—The Secretary may not award a grant to a trauma center under section 1241(a) unless the trauma center involved agrees that—

“(1) the center will continue participation in the system described in section 1241(b), except as

1 provided in subsection (b)(2) of such section,
2 throughout the grant period beginning on the date
3 that the center first receives payments under the
4 grant; and

5 “(2) if the agreement made pursuant to para-
6 graph (1) is violated by the center, the center will
7 be liable to the United States for an amount equal
8 to the sum of—

9 “(A) the amount of assistance provided to
10 the center under section 1241(a); and

11 “(B) an amount representing interest on
12 the amount specified in subparagraph (A).

13 “(b) MAINTENANCE OF FINANCIAL SUPPORT.—With
14 respect to activities for which a grant awarded under sec-
15 tion 1241 are authorized to be expended, the Secretary
16 may not award such a grant unless the trauma center in-
17 volved agrees that, during the period in which the center
18 is receiving payments under the grant, the center will
19 maintain access to trauma services at levels not less than
20 the levels for the prior year, taking into account reason-
21 able volume fluctuation that is not caused by intentional
22 trauma boundary reduction, downgrading of the level of
23 services, or diversion of services in excess of 5 percent.

1 “(c) TRAUMA CARE REGISTRY.—The Secretary may
 2 not award a grant under section 1241(a) unless the trauma
 3 center involved agrees that—

4 “(1) not later than 6 months after the date on
 5 which the center submits a grant application to the
 6 Secretary, the center will establish and operate a
 7 registry of trauma cases in accordance with guide-
 8 lines developed by the American College of Surgeons;
 9 and

10 “(2) in carrying out paragraph (1), the center
 11 will maintain information on the number of trauma
 12 cases treated by the center and, for each such case,
 13 the extent to which the center incurs substantial un-
 14 compensated costs in providing trauma care.”.

15 **SEC. 104. GENERAL PROVISIONS.**

16 Section 1244 of the Public Health Service Act (42
 17 U.S.C. 300d–44) is amended by striking subsections (a),
 18 (b), and (c) and inserting the following:

19 “(a) APPLICATION.—The Secretary may not award
 20 a grant to a trauma center under section 1241(a) unless
 21 an application for the grant is submitted by the center
 22 to the Secretary and the application is in such form, is
 23 made in such manner, and contains such agreements, as-
 24 surances, and information as the Secretary determines to
 25 be necessary to carry out this part.

1 “(b) LIMITATION ON DURATION OF SUPPORT.—The
2 period during which a trauma center receives payments
3 under a grant under section 1241(a)(3) shall be for 3 fis-
4 cal years, except that the Secretary may waive such re-
5 quirement for the center and authorize the center to re-
6 ceive such payments for 1 additional fiscal year.

7 “(c) LIMITATION ON AMOUNT OF GRANT.—Notwith-
8 standing section 1242(a), a grant under section 1241 may
9 not be made in an amount exceeding \$2,000,000.

10 “(d) ELIGIBILITY.—Except as provided in section
11 1242(b)(1)(B)(iii), acquisition of, or eligibility for, a grant
12 under section 1241(a) shall not preclude a trauma center’s
13 eligibility for the other grants described in such section.

14 “(e) FUNDING DISTRIBUTION.—Of the total amount
15 appropriated for a fiscal year under section 1245, 70 per-
16 cent shall be used for substantial uncompensated care
17 awards under section 1241(a)(1), 20 percent shall be used
18 for core mission awards under section 1241(a)(2), and 10
19 percent shall be used for emergency awards under section
20 1241(a)(3).

21 “(f) MINIMUM ALLOWANCE.—Notwithstanding sub-
22 section (e), if the amount appropriated for a fiscal year
23 under section 1245 is less than \$25,000,000, all available
24 funding for such fiscal year shall be utilized for substantial
25 uncompensated care awards under section 1241(a)(1).

1 “(g) SUBSTANTIAL UNCOMPENSATED CARE AWARD
 2 DISTRIBUTION AND PROPORTIONAL SHARE.—Notwith-
 3 standing section 1242(a), of the amount appropriated for
 4 substantial uncompensated care grants for a fiscal year,
 5 the Secretary shall—

6 “(1) make available—

7 “(A) 50 percent of such funds for category
 8 A trauma center grantees;

9 “(B) 35 percent of such funds for category
 10 B trauma center grantees; and

11 “(C) 15 percent of such funds for category
 12 C trauma center grantees; and

13 “(2) provide available funds within each cat-
 14 egory in a manner proportional to the award basis
 15 specified in section 1242(a)(2) to each eligible trau-
 16 ma center.

17 “(h) REPORT.—Beginning 2 years after the date of
 18 enactment of the National Trauma Center Stabilization
 19 Act of 2009, and every two years thereafter, the Secretary
 20 shall biennially—

21 “(1) report to Congress on the status of the
 22 grants made pursuant to section 1241; and

23 “(2) evaluate and report to Congress on the
 24 overall financial stability of trauma centers in the
 25 United States.”.

1 **SEC. 105. AUTHORIZATION OF APPROPRIATIONS.**

2 Section 1245 of the Public Health Service Act (42
3 U.S.C. 300d–45) is amended to read as follows:

4 **“SEC. 1245. AUTHORIZATION OF APPROPRIATIONS.**

5 “For the purpose of carrying out this part, there are
6 authorized to be appropriated \$100,000,000 for fiscal year
7 2009, and such sums as may be necessary for each of fis-
8 cal years 2010 through 2015. Such authorization of ap-
9 propriations is in addition to any other authorization of
10 appropriations or amounts that are available for such pur-
11 pose.”.

12 **SEC. 106. DEFINITION.**

13 Part D of title XII of the Public Health Service Act
14 (42 U.S.C. 300d–41 et seq.) is amended by adding at the
15 end the following:

16 **“SEC. 1246. DEFINITION.**

17 “In this part, the term ‘uncompensated care costs’
18 means unreimbursed costs from serving self-pay, charity,
19 or Medicaid patients, without regard to payment under
20 section 1923 of the Social Security Act, all of which are
21 attributable to emergency care and trauma care, including
22 costs related to subsequent inpatient admissions to the
23 hospital.”.

1 **TITLE II—TRAUMA SERVICE**
 2 **AVAILABILITY**

3 **SEC. 201. ESTABLISHMENT OF GRANT PROGRAM.**

4 Title XII of the Public Health Service Act (42 U.S.C.
 5 300d et seq.) is amended by adding at the end the fol-
 6 lowing:

7 **“PART H—TRAUMA SERVICE AVAILABILITY**

8 **“SEC. 1281. GRANTS TO STATES.**

9 “(a) ESTABLISHMENT.—To ensure universal access
 10 to trauma care services provided by trauma centers and
 11 trauma-related physician specialties, the Secretary shall
 12 provide funding to States to enable such States to award
 13 grants to eligible entities for the purposes contained in
 14 this section.

15 “(b) AWARDING OF GRANTS BY STATES.—Each
 16 State may award grants to eligible entities within the
 17 State to—

18 “(1) improve the availability of trauma services
 19 in underserved areas;

20 “(2) address trauma center over-crowding;

21 “(3) enhance trauma surge capacity;

22 “(4) address shortages of trauma surgeons and
 23 certain other trauma related physician subspecial-
 24 ties, including providing reimbursement for the un-
 25 reimbursed costs to trauma centers for trauma-re-

1 lated physician compensation to ensure the avail-
2 ability of such physicians to protect against trauma
3 center closures or downgrades; and

4 “(5) improve trauma service coordination and
5 the appropriate transport of trauma patients to
6 trauma centers.

7 “(c) ELIGIBILITY.—

8 “(1) IN GENERAL.—To be eligible to receive a
9 grant under subsection (b) an entity shall—

10 “(A) be—

11 “(i) a public or non-profit trauma
12 center that meets that requirements of
13 paragraphs (1), (2), and (5) of section
14 1241(b);

15 “(ii) a safety net public or nonprofit
16 trauma center that meets the requirements
17 of paragraphs (1) through (5) of section
18 1241(b) for the purposes of grants to carry
19 out activities described in paragraphs (1)
20 and (2) of subsection (d);

21 “(iii) a consortium of public or non-
22 profit trauma centers; or

23 “(iv) a hospital that seeks to establish
24 new trauma services in underserved areas
25 (as defined by the State); and

1 “(B) submit to the State an application at
2 such time, in such manner, and containing such
3 information as the State may require.

4 “(2) LIMITATION.—A State shall utilize at least
5 40 percent of the amount available to the State
6 under this part for a fiscal year to award grants to
7 entities described in paragraph (1)(A)(ii).

8 “(d) USE OF FUNDS.—The recipient of a grant under
9 subsection (b) shall carry out one or more of the following
10 activities consistent with subsection (b):

11 “(1) Providing safety net trauma centers with
12 funding to support physician compensation in trau-
13 ma-related physician specialties where shortages
14 exist in the region involved.

15 “(2) Providing for individual safety net trauma
16 center fiscal stability and costs related to 24-hour a
17 day, 7 days a week, service availability with priority
18 provided to safety net trauma centers located in
19 urban, border, and isolated rural areas.

20 “(3) Activities to reduce trauma center over-
21 crowding.

22 “(4) Establishing new trauma services in un-
23 derserved areas.

24 “(5) Enhancing regional systemic coordination
25 of trauma service availability.

1 “(6) Making capital improvements to enhance
2 access and expedite trauma care, including providing
3 helipads and associated safety infrastructure.

4 “(7) Enhancing regional trauma surge capacity.

5 “(8) Ensuring expedient transport by ground or
6 air to the appropriate trauma center.

7 “(e) LIMITATION.—A State may use not to exceed 20
8 percent of the amount available to the State under this
9 part for a fiscal year for administrative and systemic costs
10 of the State in awarding grants, including coordination
11 with other States to recognize existing or otherwise appro-
12 priate patient transfer patterns that may exist beyond
13 State boundaries while remaining consistent with the
14 State trauma and emergency medical service systems of
15 each State.

16 “(f) DISTRIBUTION OF FUNDS.—

17 “(1) POPULATION.—Except as provided in
18 paragraph (2), from the amount appropriated for
19 each fiscal year to carry out this part, the Secretary
20 shall distribute to each State an amount that bears
21 the same ratio to such appropriated amount as the
22 population of the State involved (as reported in the
23 most recent decennial census) bears to the total pop-
24 ulation of the United State (as reported in the most
25 recent decennial census).

1 “(2) MINIMUM AMOUNT.—Notwithstanding
2 paragraph (1), a State shall at a minimum receive
3 an amount for a fiscal year that is not less than 1
4 percent of the amount appropriated for such fiscal
5 year.

6 **“SEC. 1282. AUTHORIZATION OF APPROPRIATIONS.**

7 “For the purpose of carrying out this part, there is
8 authorized to be appropriated \$100,000,000 for each of
9 fiscal years 2010 through 2015.”.

○